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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
		03343/100I046-US1	
	Application Number	Filed	
	10/017,495-Conf. #5644	December 14, 2001	
	First Named Inventor Cuie Zhao		
Art Unit	Examiner		
2194	L. Truong		
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant /inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>26,272</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____</p> <p><i>Diana C. Brantman</i> 38, 395 Signature</p> <p><i>for</i> Melvin C. Garner Typed or printed name</p> <p>_____ (212) 527-7717 Telephone number</p> <p>_____ March 7, 2006 Date</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>			

Rawson, Nelson and Nessett. (See Response to Office Action dated September 7, 2005, page 2). Applicants submit that the Examiner is incorrect in rejecting claims 1, 2, 9, 10 and 12-24 as being obvious over the aforementioned combinations.

In the present application, the claimed inventions are directed to methods for performing fault tolerance, load balance and failover of CORBA object servers transparently (Claim 1 and 15) and to a method of transparently load balancing CORBA object servers (Claim 23). Each claim recites “establishing name service clusters [in standard CORBA infrastructure] for the object servers which each contain a unique object binding table that contains object server references [and] in response to a request from a client that invokes a cluster” performing a load balance by having the name service select an object server located in the invoked cluster. The Name Service is inherent in the CORBA infrastructure, which means that the fault tolerance, the load balance and failover are performed transparently, i.e. without change apparent to the user, a notion which is expressly recited in each claim.

A. The Cited Combination Fails to Result in the Claimed Invention

The Applicants have previously argued that neither Ben-Shachar nor Emens, alone or in combination, teach or suggest the notion of transparency. (Response to Office Action dated September 7, 2005, page 3). The Examiner, relies on Ben-Shachar as disclosing this feature. (December 13, 2005 Advisory Action, page 3). Specifically, the Examiner states that “the process of obtaining a worker is transparent to the client, because the **service proxy** performs the necessary steps to obtain the worker, the service proxy can bind to the **service locator**...” (December 13, 2005 Advisory Action, page 3). This phrase relates to the process of obtaining a worker, so the Examiner’s response takes the term “transparent” out of context from the argument of the Applicant presented as a whole. Although, the Applicant states that the notion of transparency is not disclosed, if read in context, the applicant expressly states that “the fault tolerance, the load balance and the failover are performed transparently [and] [n]either Ben-Shachar nor Emens ... teach or suggest the notion of transparency”, clearly meaning as it relates to the fault tolerance, load balance and failover. (Response to Office Action dated September 7, 2005, page 3). In fact, in defining



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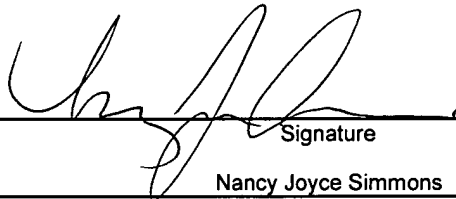
Attorney Docket No.: 03343/1001046-US1

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